

### **Remarks**

This is responsive to the third non-final Office Action mailed September 2, 2008, which withdrew a previous allowance of claims 8-15, 23-24 and 28-31. The Applicant thanks the Examiner for the continued diligence during the present prosecution. In view of the following comments, it is believed that the application is in condition for reconsideration and allowance.

Claim 25 has been amended to recite “*a first program area content,*” and “*a second program area content.*” This amendment is proper and does not introduce new matter.

### **Rejection of Claims Under 35 U.S.C. §101**

Claim 25 was rejected as being directed to non-statutory subject matter. While this rejection is respectfully traversed, it is believed that the above amendments to claim 25 obviate this rejection. Withdrawal of the rejection is accordingly solicited.

### **Rejection of Claims Under 35 U.S.C. §103(a)**

Claims 1-21 and 23-31 were rejected as being obvious over Lee ‘344 (US Published Patent Application No. US2003/0223344) in view of Kawamura ‘614 (US 6,424,614). This is respectfully traversed.

Neither reference teaches or suggests a first stamper as recited by claim 1 having pits and lands “*defining non-first layer data including an identifier tag which identifies the first stamper as corresponding to a second stamper configured to form pits and lands in a first layer of the disc, said pits and lands in the first layer defining first layer data that are different from the non-first layer.*”

The Examiner relied on the teachings of Kawamura '614 to supply the above claim language. However, a review of Kawamura '614 shows that the reference teaches the use of a top level table of contents, TOC00 which is only located on the first layer of a multi-layer disc. See FIG. 3 and col. 4, lines 36-37 ("*The TOC of all layers (TOC00) is recorded on the uppermost layer.*"). See also col. 4, lines 44-50 ("*The TOC00 provides important data defining the disk...*") The layout of this top level TOC00 is set forth in FIG. 11.

Kawamura '614 further teaches the use of layer-based TOCs denoted as TOC0, TOC1, TOC2, etc. These layer-based TOCs are respectively applied to the individual layers and specifically relate to the data on that layer. See FIG. 3 and col. 4, lines 31-34. The layout of each of these layer-based TOCs is set forth by FIG. 15.

Multiple copies of the same layer-based TOC may be provided in the inner guard area (IGA) or outer guard area (OGA) on each layer, as desired, as illustrated in FIG. 10. Nevertheless, these layer-based TOCs fail to teach or suggest "*defining non-first layer data including an identifier tag which identifies the first stamper as corresponding to a second stamper configured to form pits and lands in a first layer of the disc, said pits and lands in the first layer defining first layer data that are different from the non-first layer,*" as featured by claim 1. This deficiency prevents the establishment of a *prima facie* case of obviousness. See *In re Royka*, 580 USPQ 180 (CCPA 1974).

Moreover, the skilled artisan would not find it desirable from the combined teachings of the cited references to arrive at the claimed combination. *Graham v. John Deere*, 383 US 1 (1966). For example, Kawamura '614 teaches to reference the top level TOC00 and to link from that to the respective layer-based TOC1, TOC2, etc. to facilitate fast access of the disk contents. See col. 4, lines 53-58 and col. 12, lines 30-37. The

featured “*identifier tag*” as claimed is neither required nor useful in such operation.

Reconsideration and withdrawal of the rejection of claim 1, and for the claims depending therefrom, are accordingly requested for these reasons.

As the cited references are similarly deficient with regard to the subject matter of independent claims 8, 16 and 28, reconsideration and withdrawal of the rejection of these claims, and for the claims depending therefrom, are also respectfully solicited.

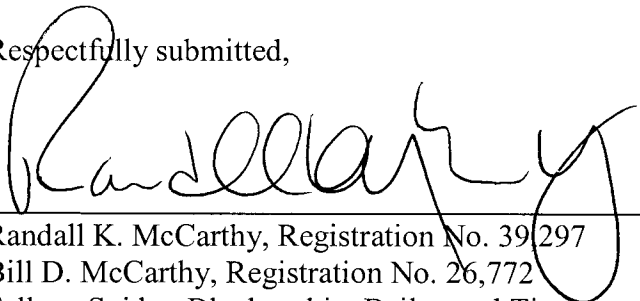
### **Conclusion**

This is intended to be a complete response to the third non-final Office Action mailed September 2, 2008. The Applicant requests reconsideration and allowance of all of the claims pending in the application.

Should any questions arise concerning this response, the Examiner is invited to contact the below signed attorney.

Respectfully submitted,

By:

A handwritten signature in black ink, appearing to read "Randall K. McCarthy", written over a horizontal line.

Randall K. McCarthy, Registration No. 39,297  
Bill D. McCarthy, Registration No. 26,772  
Fellers, Snider, Blankenship, Bailey and Tippens  
100 N. Broadway, Suite 1700  
Oklahoma City, Oklahoma 73102  
Telephone: (405) 232-0621  
Facsimile: (405) 232-9659  
Customer No. 33900